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TESTIMONY OF CHARLES BECKENDORF
CHAIRMAN
NATIONAL MILK PRODUCERS FEDERATION
BEFORE THE
AGRICULTURE COMMITTEE
OF THE HOUSE OF REPRESENTATIVES

Mr. Chairman and members of the committee, I am Charles Beckendorf, a dairy producer from Tomball, Texas and Chairman of the National Milk Producers Federation (NMPF). The National Milk Producers Federation works closely with the members and staff of the U.S. Dairy Export Council (USDEC) on issues of trade policy that promote U.S. dairy exports. I am pleased to appear before you today to testify on the status of agricultural trade negotiations, including the World Trade Organization and bilateral and regional agreements.

America's dairy industry is the second largest agricultural commodity sector in the United States, measured by farm cash receipts. There are 70,000 dairy producers in the U.S. farming in every state, from Vermont to California, Oregon to Florida plus Alaska and Hawaii. Dairy is one of the top three agricultural sectors in fully half of the states, and almost two-thirds of the members of the House hail from one of these "dairy" states. Internationally, the U.S. is the world's largest single-country producer of cow's milk.

Impressive as those numbers are, they represent only the milk production side of the industry. Dairy processors, the companies that turn milk into yogurt, cheese, ice cream and milk powder, also add overall strength and employment to the impact of the industry as a whole on the country's economy. In addition, we know that our ability to increase production, which in turn impacts employment in both the producing and processing sectors, is almost unconstrained.

In contrast to much of U.S. agriculture, the dairy sector is not particularly dependent on trade. Only about 5% of U.S. dairy production is exported, and imports account for about 4.5% of total U.S. consumption of dairy products. Nevertheless, with production expanding in the long run, trade is also growing, and the U.S. dairy industry is becoming increasingly interested in international markets. Another reason why the U.S. dairy industry is paying closer attention to international trade is the rising levels of dairy imports received by the United States. This situation has generated increasing volatility in the U.S. dairy market and the resulting price gyrations have affected not only producers and processors, but also consumers.

For these reasons, the National Milk Producers Federation is following closely all of the developments related to international trade agreements, and we welcome every opportunity to provide input to Congress and to our trade negotiators. If there is one message that members of the House Agricultural Committee should take away from this testimony, it should be that the U.S. dairy industry cannot continue down the road of unilateral disarmament. Markets need to be opened overseas before we open our domestic market any further and other countries must commit to reducing their heavy subsidies and lower their much higher tariffs before we disarm our own support system.

The Doha Round of WTO Trade Negotiations

Among current trade policy initiatives, the Doha Round of WTO negotiations is by far the most critical in importance for our industry. Because the world dairy market is so severely distorted by export subsidies and import barriers, the only viable way to reform trade in a fair way is through multilateral negotiations in the WTO. Subsidized exports from the EU accounted for nearly 25% of global dairy trade in the marketing year 2002/2003. Domestic markets of major dairy consumers such as the EU, Canada, Brazil, Korea and Japan, among others, are protected by tariffs so high that they prevent imports outside of small tariff rate quota quantities. By contrast, the U.S. uses very few export subsidies (see Annex 1) and our tariffs are relatively low compared to these other large dairy consuming markets – in fact, low enough to permit imports in excess of tariff rate quota quantities in many years (see Annex 2).

NMPF and USDEC were strong supporters of the 2002 U.S. proposal on agriculture for the Doha Round because it would have resulted in the kind of comprehensive, equitable agreement that would make trade reform a reality. That proposal called for the swift elimination of export subsidies and substantial reductions in trade distorting domestic support. These goals were to have been achieved through greater equity among all developed countries, as well as large "developing" countries, along with substantial reductions in tariffs via a harmonizing formula that would require bigger cuts for higher tariffs. This approach would also have substantially reduced distortions in the international market and provided new market opportunities for U.S. dairy product exporters. In addition, it would have opened up the markets of major dairy consuming countries simultaneously and allowed the U.S. to avoid the problems that would result from unilateral liberalization.

Unfortunately, the rest of the world did not recognize the wisdom of the U.S. proposal, and our negotiators were forced to consider compromises. In August of 2003, in an effort to promote a successful outcome at the Cancun Ministerial Conference, the U.S. and the EU produced a compromise paper on agriculture. That paper opened up the possibility that export subsidies would persist for some products and introduced the "blended formula" approach for tariff reductions.

While we at National Milk applauded the effort by our negotiators to find a way forward, we were not enthusiastic about the approach outlined in the paper, particularly in regard to export subsidies. We note with pleasure the change in position that EU Commissioners Pascal Lamy and Franz Fischler recently announced, indicating that the EU can agree to eventually eliminate export subsidies, depending on the other terms of the Doha package. Given the EU's isolation in the WTO on this issue, we believe that it now should be possible to reach an agreement that leads to a reasonable rapid elimination of all export subsidies.

On the other hand, we have become increasingly concerned that the "blended formula" approach would yield a highly asymmetrical result with respect to dairy products. Under that approach, countries would be free to designate a certain number of "sensitive products" to which they could apply the type of straight percentage reductions that were used in the Uruguay Round, while other products would be subject to the harmonizing Swiss formula. As an example, under such an approach, the EU, Canada and Japan could and would probably designate dairy products as "sensitive." The resulting tariff reductions to which they would be subject would in all likelihood be so negligible that no new market access would actually be achieved. By contrast, these small tariff cuts would open the U.S. market still further, since our tariffs are already relatively low making the U.S. the only major dairy market absorbing new globally supplied product through imports above the quota. The effect on U.S. prices would immediately impact producer income to a significant extent.

Although the U.S. negotiators' proposal for requiring only a minimum number of tariff lines to be subject to Uruguay Round style reductions may serve to produce a higher level of harmonization in dairy, this view is not shared by other members of the WTO. The EU has communicated to other WTO members that their approach would allow access to the Uruguay Round-type reductions for a large percentage of tariff lines (particularly dairy). If no other approach is feasible, the blended formula could possibly address our needs, provided that the agreement include, as an alternative means of reform, a provision requiring countries that retain peak tariffs for certain products to significantly expand tariff quotas in excess of what others, such as the U.S., are required to do. We are encouraging our negotiators to consider additional ideas and promote proposals that fully take into account the interests of the U.S. dairy industry, particularly those of dairy producers.

It is our view that focusing on small reductions for all sensitive products will only serve to perpetuate the current market access inequities. As a result of these existing disparities, the U.S. has become a dumping ground for world dairy subsidies and surpluses, a trend that is certain to continue if ambitious reforms of other large dairy markets are not pursued. For instance, the U.S. imports large quantities of non-quota products, as well as a significant amount of products above and beyond their quota limits. **During the 2001 to 2003 time period, out of an average of 865 million lbs. of total milk solids imported per year, 66 percent, or two-thirds of that amount was imported in the form of products not subject to quotas. During those years, the U.S. also imported an average of 70 million lbs. per year of over-quota products, an additional amount equating to almost one-third of the in-quota product imports. In-quota imports of products subject to tariff-rate quotas represented only about one quarter of total milk solids imported into the United States during the 2001-2003 period.** Unfortunately, the commitments in the last Uruguay Round permitted many WTO members to isolate their markets entirely, preventing all imports beyond the negotiated minimum access, while countries like the United States provided significantly more net access.

As you can see, the issue of market access has become the most sensitive aspect of the negotiations (due to U.S. dairy vulnerability) for U.S. dairy producers. We are prepared for multilateral reform, but not to liberalize our market unilaterally. This is the reason why a harmonizing tariff reduction formula, or a similar approach with an equivalent effect, must be an essential part of any agreement. We recognize that negotiations are difficult, but it is time that we worry less about other countries sensitivities and start focusing more on our own agricultural objectives.

We oppose any additional in-quota access unless other countries provide equal access in the form of in-quota, out of quota and non-quota products. Also, if agreed, additional in-quota access should be given first to developing countries and to those countries that did not enjoy special country allocations (e.g., the United States) during the Uruguay Round. Any access that benefits European or other OECD countries should be compensated for with a specific country allocation for U.S. dairy products into those markets.

The continuation of safeguards is essential to remedying price depressing import surges of dairy products. Although we understand the danger of improperly stifling access to foreign markets, a transparent, quick and efficient safeguard, with specific disciplines that address import surges, is extremely important. The special safeguard provisions adopted in previous negotiations have not proven to be very effective and need modification to improve transparency and simplicity. The U.S. government needs to be able to implement these safeguards without delay.

Finally, it is necessary to ensure that the **United States does not provide more access (in-quota or over-quota) than any other protected world market, particularly in ways that put our industry at a competitive disadvantage.** Because of the disparities created by the Uruguay Round peak tariffs, it is essential that the market access modalities include a system to evaluate the actual over-quota access that each protected market offers. In other words, calculations of minimum market access should consider both in-quota access, and over-quota access, when calculating any further concessions. Dairy producers will re-evaluate their support of the Doha Round if the method chosen for reducing tariffs forces the United States to open its markets while other WTO members are permitted to maintain high levels of tariff protection.

Export Subsidies

The U.S. dairy industry has stated numerous times that is willing to give up the Dairy Export Incentive Program as long as the Europeans and others eliminate their export subsidies entirely. In fact, we believe the pervasively negative effect of export subsidies is so extensive that the U.S. industry's competitiveness in world markets will improve given rapid elimination of export subsidies. The majority of WTO members, including the United States, have already identified the complete elimination of export subsidies as an important goal. We urge our negotiators to ensure that the EU's recent pledge to eliminate export subsidies is accounted for in the final agreement.

With regard to other forms of export competition, State Trading Enterprises (STEs) do not necessarily constitute interference to trade. An example of a properly structured entity is the Commodity Credit Corporation (CCC) in the United States. However, monopolistic STEs, receiving preferential treatment with respect to exports and imports, have consistently distorted trade. The Doha Round must not allow State Trading Enterprises, or companies sanctioned by the government to have exclusive rights to all domestic milk, as well as exclusive rights to export markets, to continue to function. The elimination of various forms of export competition should address the enormous distortions created by the monopolistic nature of certain STE organizations.

Domestic Support

It is imperative that our government preserve the ability to directly support U.S. dairy producers. We favor the current general principle of the Derbez text with some potential minor changes. We can support reducing the current levels of allowed subsidies under the Amber box as long as it is done in a manner that brings some equity into the current scenario. The Blue Box provisions should be always available to U.S. producers if they are available to other countries. **We strongly oppose the complete elimination of the Amber and Green boxes.** Moreover, the United States should only accept reductions in domestic support as part of a package that includes elimination of export subsidies and reciprocal market access through some form of harmonization. Unless negotiations reduce serious disparities in the levels of government support and offer significant market access in all countries, developed and developing, the United States must continue internal programs that counter heavy subsidization by Europe and other OECD members.

The Farm Bill of 2002 authorized the price support program for another seven years. Under the WTO's nomenclature for agricultural domestic support, the price support program is considered classified in the "Amber box" category of the most trade distorting systems. We believe that the current WTO rules of notification regarding the Amber box that emanated from the Uruguay Round have significant flaws.

The most obvious oversight is the double counting of producer support. For instance, the U.S. price support program had little impact on U.S. dairy prices until 1999. Nevertheless, the United States notified to the WTO an average of $4.5 billion annually for dairy price support, when in reality government outlays were near zero. Also, because of differences in reporting methods, the EU notifies significantly lower quantities than the United States, despite the fact that our programs are less intrusive and less trade distorting.

Non-Trade Concerns

In addition to the three pillars of U.S. dairy trade concerns (export subsidies, market access and domestic support), issues of non-trade concerns (geographical indications, the precautionary principle, labeling and food safety), as well as the topic of special and differential treatment for developing countries, have the potential for severely damaging the future of dairy trade reform.

We are encouraged by Commissioner Lamy's letter on May 9, 2004, which lacks a direct reference to "geographical indications" (GIs). However, GIs continue to be a priority for the EU and their pressure remains hidden at this time under the implementation rules. Moreover, domestically, the EU continues to propose changes on this topic and to challenge EU member countries that refuse to comply with its internal mandate. This is an action that has divided the European continent between those who want to capture and monopolize generic names versus those who believe that generic names, as well as trademarks, are protected both by laws and by years of marketing and development. We must remain vigilant to ensure that the EU doesn't seek a trade off between the elimination of export subsidies and further access in agriculture in exchange for an unprecedented expansion of GIs protection in the international realm. **Under no terms should the U.S. government agree to a trade-off between GIs and progress in the agricultural negotiations.**

These so-called "non-trade concerns" also include topics such as animal welfare, consumer attitudes and fears (known as the "precautionary principle"), and the notion that the special characteristics of agriculture should permit the continued use of trade restricting measures or trade distorting subsidies. These "non-trade" issues mainly interest the EU, Japan and a few other countries in order to further deny fair market access to our goods.

We agree that the specific role of agriculture as a provider of public goods should be recognized, yet we strongly disagree with any attempt to use those concerns to prevent trade. While the U.S. dairy industry does not oppose the idea that agriculture is a unique economic activity that merits different treatment, we firmly believe that the real issue is the manner in which the various objectives attributed to agriculture are accomplished. Legitimate social, cultural and environmental goals are best accomplished through specifically targeted programs that do not prevent trade. It is important that the United States prevent the inclusion of issues such as labeling and animal welfare, in addition to others, in a final agreement, if the provisions would result in further trade distortions.

Special & Differential Treatment (Developing Countries)

Special and differential treatment for developing countries given in the form of restricting trade is an impediment to further trade and economic reform. The U.S. dairy industry opposes proposals to provide a "free round" to any countries. This prospect is in direct opposition to the goals of expanding exports and improving the economic well being of all developing countries.

The U.S. dairy industry rejects the concept of "strategic products" for developing countries. It also disapproves of permitting developing countries to maintain high levels of protection. Although we may contemplate the possibility of lesser commitments from the least developed countries, especially in Africa and the Caribbean, under no circumstances should developing countries with larger economies be allowed to be exempted from the trade reform process under the auspices of being a "developing country".

In conclusion, the U.S. dairy industry has built its trade priorities around the proposition that the playing field must be leveled in all three pillars. Inequities must be eliminated. Our dairy sector can compete internationally, but only if distortions disappear in a fair manner and the U.S. does not undertake reforms unilaterally. The United States Congress needs to carefully examine the pros and cons of an agreement that does not accomplish those goals.

Bilateral and Regional Trade Agreements

As I indicted earlier, National Milk believes that the WTO is the best place to negotiate the liberalization of agricultural trade. We do not believe that bilateral or regional agreements are the best vehicle. Because of their scope, such agreements cannot address world market distortions. Moreover, bilateral agreements with net dairy exporting countries open the U.S. market to increased competition without providing new market access opportunities.

Another concern with respect to bilateral and regional agreements is that these agreements are creating a network of preferences that could make multilateral liberalization much more difficult. We are already beginning to notice this phenomenon in the Doha Round negotiations, where African and Caribbean recipients of EU preferences have argued against the use of the Swiss formula because they fear it would undermine the value of the preferences they receive in the EU market. The EU has openly encouraged those countries to make that argument and is now trying to use the same tactic to neutralize the MERCOSUR countries. EU negotiators recently told MERCOSUR negotiators that they could make a much better offer on agricultural products in their bilateral negotiation if MERCOSUR would commit to supporting the EU in seeking a minimal outcome on market access in the Doha Round.

It should be noted that we do see some export opportunities in some of the bilateral agreements the U.S. has negotiated and is currently negotiating. We are working with our negotiators to maximize those opportunities and minimize the risks. Because of this growth potential, we have supported those carefully selected agreements that offered the prospect of market access gains for our industry. **Despite our support for these**

FTAs, however, we remain convinced that the multilateral format is clearly the preferable avenue for trade negotiations.

Free Trade Area of the Americas (FTAA)

A year ago the U.S. dairy industry testified that a Free Trade Area of the Americas (FTAA) was long overdue, because we had lost ground to our trade competitors who aggressively pursued and continue to pursue such activities. However, the current vision for an FTAA falls short of our hopes for an integrated American Hemisphere.

Although the potential for export growth as a result of an FTAA is large, we are now gaining some of those opportunities in Latin America through bilateral agreements currently being pursued by this Administration. Every country in that region except Argentina, Uruguay, Brazil, Paraguay, Venezuela and the some of the poorest countries in the Caribbean will have negotiated an FTA with the United States by early 2005. Virtually all of these countries with whom the U.S. anticipates having an FTA are net importers of dairy products.

A year ago, we also testified that we strongly supported the FTAA for its ability to finally bring the Canadian dairy industry into the North America market global system. Unfortunately, we are seriously concerned that the FTAA process has been tainted by Brazil's insistence to exclude economic sectors which could likely result in Canada and others excluding their dairy sectors.

We have repeatedly stated that if Canada succeeds in excluding its dairy sector, the U.S. dairy industry would find little reason to support an FTAA. Under these conditions, our industry can no longer support an FTAA that doesn't provide a true level playing field and open markets across the Hemisphere, especially in Brazil and Canada. Again, if these new provisions to make the FTAA less than comprehensive result in exclusions by Brazil and Canada, and if such developments are coupled with the fact that almost all other markets will be part of an umbrella of FTAs in the hemisphere, the FTAA is made much less desirable, even objectable.

Australia FTA

The National Milk Producers Federation has opposed this agreement in the past and continues to be opposed today due to the unnecessary access given to Australia by the U.S. government. Nevertheless, members of Congress and the United States Trade Representatives must be commended for listening to our concerns and protecting our over-quota tariffs.

Indeed, a number of the members of Congress and many of you on this Committee fought diligently to defend the interests of the U.S. dairy industry. One of our greatest apprehensions was the elimination of our over-quota tariffs, which would have led to our fully opening our market to a major competitor while a substantially unreformed global trading system remained in place.

The ratio of exports to imports from Australia is skewed significantly in Australia's favor with the U.S. exporting only $10.8 million of dairy products to Australia in 2003 while Australia exported $89.6 million worth of dairy products to the U.S. that year. Under the FTA, Australia will be able to export approximately 55 million pounds of additional dairy products, with the disparity in the trade ratio favoring significant growth for imports from Australia under the FTA and essentially no new export opportunities in Australia for U.S. products.

We encourage the Administration and the members of this committee to include provisions in the implementing bill that would result in the offset of any income loss by dairy producers. For instance, if Congress passes the Australian FTA, a way to significantly help to offset the losses to dairy farmer income that the FTA would impose, would be for the Administration to use the full WTO permitted allocation available under the Dairy Export Incentive Program.

CAFTA and Other Bilateral Agreements

Thanks to the successful inclusion of dairy in the Central American Free Trade Agreement, U.S. dairy producers and processors across the country can look to benefit from increased trade opportunities within the region. Working closely with USTR, the U.S. dairy industry helped fend off our partner countries' desire to exclude dairy from the agreement. That effort will pay off as the U.S. gains more than 2600 metric tons of immediate new market access for cheese into the six CAFTA countries, as well as immediate access for approximately 4800 tons of powder, 800 tons of butter, 750 tons of ice cream, and 850 tons of other dairy products. Despite its sensitivity in our CAFTA partner countries, the time period required to phase out tariffs on dairy products will be only two years longer than that for the majority of products. We urge the Administration to place a higher priority on passing CAFTA to more quickly usher in its benefits than on passing the Australia FTA, which offers no benefit to our industry and little to American agriculture as a whole.

With the above-mentioned exception of the U.S.-Australia Free Trade Agreement, the U.S. dairy industry supports many of the trade initiatives currently underway. We believe that such trade initiatives, particularly those within the Western Hemisphere, are clearly beneficial for the U.S. due to the potential economic benefit that would arise from greater trade links within the Western Hemisphere.

As we have stated publicly in the past, the U.S. dairy industry applauds Congress for passing the U.S.-Chile and U.S.-Singapore FTAs. The U.S. dairy industry welcomes the completion of the Central American agreement plus the Dominican Republic (CAFTA), and encourages Congress to approve these mutually beneficial agreements.

U.S. negotiators achieved a major victory when Central America agreed to tariff elimination, as part of the Free Trade Agreement, and accepted immediate access for a number of U.S. dairy products.

As for agreements that remain under negotiation, we believe that the Andean FTA (Peru, Colombia and Ecuador) makes economic sense for the United States, as it would increase prosperity for these neighboring countries, in addition to providing opportunities for the U.S. dairy industry. These benefits to the U.S. dairy industry are clear, as these countries are net importers of dairy products. The three nations imported over 40% more dairy products than they exported in 2001. This total reflects wide differences between the various countries: Colombia's trade ratio is more balanced, while Ecuador's imports amounted to over 5 times the value of its exports in 2001 and Peru imported a striking eleven and a half times the value of dairy products that it exported that year. We believe that even if the FTA brings a rise in domestic dairy production, we will help consumption to increase at a faster rate, resulting in a clear benefit for both the Andean countries and the U.S. dairy industry.

Similarly in the case of the U.S.-Panama FTA, the U.S. dairy industry stands to gain beneficial new export opportunities from an agreement with Panama. Dairy imports into Panama in 2001 amounted to 10.6 million kilograms. The best opportunities appear to lie in the market for cheese, with only 13% of imports coming from the U.S. in 2001, as well as that for skim milk powder and for butter, for which the U.S. supplied less than 10% of imported products in 2001. New Zealand and Oceania currently supply the majority of Panama's dairy import needs, but with favorable trade terms through an FTA, the U.S. could better compete against Oceania in that market.

The same sort of potential gains apply with respect to the U.S.-Thailand FTA. While Thailand is not one of our largest export markets, it is one of the most prosperous and fastest growing economies in its region. We therefore recognize the benefit of obtaining preferential market access terms to this net-dairy-importing nation. We also recognize the newly pressing necessity of an FTA with Thailand in order to avoid losing dairy market share to Australia, who recently concluded FTA negotiations with Thailand. In 2000, Australia supplied 29% of Thailand's dairy imports while the U.S. accounted for only 5%. If the U.S. is able to negotiate tariff reductions equivalent to those granted to Australia, we stand poised to gain market share from the EU, which supplied 31% of the market in 2000.

Thailand requires more dairy products than its domestic industry can produce. In 2001, per capita production of dairy products was 19 million pounds per person, compared with a per capita demand of 52 million pounds per person. Given this tremendous imbalance between domestic supply and demand, a U.S.-Thailand FTA could benefit both countries. Thai processors are clamoring for more product and we would like to help supply more of that market. The market access advantage that a properly negotiated FTA could provide would hopefully encourage this direction.

Rules of Origin

Rules of origin is a fundamental concept of bilateral and/or regional trade agreements that dictates that economic benefits accrue exclusively to the countries within the region. Dairy suppliers from around the world continually explore ways to expand their shipments to the United States. Milk's versatility creates the opportunity for that expansion by its great variety of tradable products – almost 400 individual tariff lines of the HTSUS include significant proportions of milk and dairy components. In the absence of appropriate rules of origin, it will no doubt be tempting for non-party countries to attempt to transship their dairy products through participating countries.

NAFTA includes excellent provisions addressing rules of origin. For the purpose of determining origin, NAFTA rules of origin restrict exports of dairy products to milk and milk products originating in the FTA country (Mexico-Canada).

If the rules of origin permit non-parties to transship dairy components into the U.S. market via FTA partners, then we estimate that the quantity of these additional imports – above and beyond those that truly originate from FTA members – could amount to as much as 5 billion pounds per year, on a milk equivalent basis, following full implementation of all the FTAs currently being negotiated. The negative impact of these additional imports on the U.S. dairy industry would be substantial. Milk prices received by producers would drop significantly and gross revenues received by U.S. dairy farmers would decline by more than $1 billion per year. Several thousand dairy farms, mostly smaller and medium family farms, would be forced out of business.

Rules of origin must be specific enough in order to mandate that all milk and dairy ingredients for which access to the U.S. market is liberalized must be manufactured from milk produced by cows in the FTA country. In the absence of such rules of origin, dairy products and dairy ingredients produced in third countries, particularly New Zealand, Australia and member countries of the European Union, could easily be transshipped through an FTA partner to benefit from the large difference in tariff treatment afforded products that will qualify for liberalized access to the U.S. market under a bilateral agreement.

Dairy Export Incentive Program (DEIP)

On a milk equivalent basis, the EU accounts for fully 72 percent of the subsidy allowances agreed upon in the Uruguay Round; the U.S., which produces two–thirds as much milk as the EU, accounts for just three percent of these allowances. Such heavy export subsidies drive down international prices, making U.S. dairy commodity exports uncompetitive. With a renewal of the DEIP program, U.S. suppliers have some ability to compete. Please see Annex 1 which depicts the gross disparity between the levels of support that EU and U.S. producers have available to them through export assistance.

Amazingly, only 16 percent of all available butterfat DEIP awards have been used since 1995 regardless of high or low market prices (see Annex 3). Despite numerous pleas from this committee and other members of Congress, USDA never made available all the butterfat DEIP awards when prices were at its lowest in 25 years.

During the Uruguay round, the U.S. government gave a number of concessions (including in dairy) and obtained a number of rights. One of these legitimate tools that dairy producers agreed to cap, but continue to use was the Dairy Export Incentive Program. Our tariffs are lower and access given to other countries has not stopped; we do not understand why we are complying with all our obligations under the WTO, but we cannot make use of our rights. This is of paramount importance to dairy producers if we are to demonstrate that the Administration is committed to leveling the playing field while continuing to utilize all of our tools to combat distorted trade practices.

Enforcement of Current Agreements – Importation of Milk Proteins

Of course, strong trade rules are of little value if they are not enforced. That is why National Milk was so pleased with the successful challenge by the U.S. of the Canadian dairy export policy under WTO dispute settlement. Not only did that case force a change in Canadian policy, it also prevented the EU from adopting a similar regime and avoiding disciplines on export subsidies.

We are now facing another significant enforcement problem, but we do not see a similar willingness on the part of the Administration to address it. Milk protein concentrate (MPC) and casein products are freely flowing at exponentially increasing rates of importation into the U.S. market. Few issues have galvanized the U.S. dairy producer community as strongly in recent years as has the topic of MPC and the impact that imports of MPC & casein have had on the economic health and stability of the dairy sector.

When the U.S. established its tariff-rate schedules for imported dairy products, first during the creation of the Harmonized Tariff Schedule in 1989 and later during negotiations of the General Agreement on Tariffs and Trade in 1994, the technology to both produce and use concentrated milk proteins was in its infancy. The U.S. established Tariff Rate Quotas (TRQs) for other forms of dairy products, such as cheese, butter and nonfat dry milk, but it created no significant tariffs or quotas for MPC or casein. As a result, six years after the implementation of the GATT agreement, MPC and casein can be imported into this country with virtually no trade limitations.

Although MPC and casein are produced by at least half a dozen major dairy exporting nations, the U.S. alone represents about 70% of the world market for these products, primarily because other countries successfully established restrictive tariffs on MPC and casein in 1994. American dairy farmers are thus forced to compete with often heavily-subsidized MPC and casein exports even while other nations jealously guard their own domestic markets from competition from these and other dairy products. In recent years when milk prices were at twenty-five year lows, this unfair competition was particularly painful for U.S. producers to bear, especially given the drastic rate of increase of this product.

Because of the Administration's unwillingness to correct this oversight and growing problem, members of Congress have introduced H.R. 1160 and S. 560 which seek to close these import loopholes and provide a fairer and more level playing field in dairy trade. We thank many on this committee for being sponsors of this important legislation and urge those of you who have not yet signed on to do so without delay. Already, 184 members have signed the House legislation as cosponsors.

I appreciate the opportunity to testify before you today and will be pleased to answer any questions you might have.

Thank you.

Charles Beckendorf